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Supreme Court of the United States

OCTOBER TERM, 1937

No. [REDACTED]

57

STATE OF MISSOURI, ex rel. LLOYD L. GAINES,
Petitioner,

vs.

S. W. CANADA, Registrar of the University of Missouri, and
the CURATORS OF THE UNIVERSITY OF MISSOURI,
a Body Corporate.

PETITION FOR CERTIORARI

LLOYD L. GAINES, *Petitioner,*
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PETITION FOR CERTIORARI

To the Supreme Court of the United States:

Your Petitioner, Lloyd L. Gaines, respectfully alleges:

A.

Summary Statement of the Matter Involved

Petitioner, a citizen and taxpayer of Missouri, resident of St. Louis, twenty-five years of age, who desires to study law to prepare himself to practice in Missouri and for public service in said State, applied for admission to the first year class of the School of Law of the State University of Missouri, and was rejected by the Registrar and the Curators of the University solely because he is a Negro. His qualifications, apart from race, are admitted.

The School of Law of the University of Missouri is the only public institution in Missouri offering instruction in law, and the only institution in Missouri offering instruction in law which petitioner is eligible to attend. Petitioner applied to the Circuit Court of Boone County, Missouri, which had jurisdiction in the premises, for a writ of mandamus against the Registrar and Curators of the University to compel them to admit him to the first year class of the School of Law on the same terms and conditions as other students; but the writ was denied. On appeal, the judgment was affirmed December 9, 1937, by the Supreme Court of Missouri, the highest court in the State. Motions for rehearing and for modification of opinion duly filed were overruled February 25, 1938.

The "Curators of the University of Missouri," the administrative agency of the State which governs the University, justified its refusal to admit petitioner to the School of Law on the grounds that it is against the Constitution, laws and public policy of the State to admit a Negro to the University of Missouri, and that by the Lincoln University Act of 1921 (Laws 1921, p. 86)¹ the State has provided Negroes an opportunity to study law equivalent to that which the State offers to white and other students in the University of Missouri.

The Lincoln University Act of 1921 changed the name of Lincoln Institute, the State undergraduate college for Negroes, to Lincoln University and required the Curators of Lincoln University "whenever necessary and practicable in their opinion" to reorganize the institution so that it might afford Negro citizens of the State opportunity for training up to the standard furnished at the University of Missouri; and pending the full development of Lincoln University its Curators were to pay the tuition of Missouri Negroes at the university of any adjacent State to take any course offered at the University of Missouri but not at Lincoln University. To carry out the purposes of the Act,

¹ See Appendix, p. 25.

by section 8 an attempt was made to appropriate \$500,000 from the general school fund of the State. This appropriation was declared void by the Missouri Supreme Court in *Lincoln University v. Hackmann*, 295 Mo. 118 (1922), and no appropriation has since been made to expand Lincoln University from an undergraduate college to a university offering professional or graduate courses. Lincoln University offers no professional or graduate work. No definite program for expansion has been evolved.

The University of Missouri accepts as students not only white Missourians, but also nonresident whites, Asiatics and other foreigners. The only qualified students refused admission to the University are Negroes, because of their race or color.

No express constitutional or legislative provision requires the separation of the races for purposes of professional or graduate training, and petitioner brought and prosecuted his cause in the Circuit Court and the State Supreme Court on the theory that Section 9657,² Missouri Revised Statutes, 1929, specifically authorized the admission of all qualified citizens of Missouri to the State University. The Missouri Supreme Court however ruled that the constitution, laws and public policy of the state excluded Negroes from the University of Missouri and that the State had otherwise accorded petitioner an opportunity to study law substantially equal to the opportunity accorded white and other students in the School of Law of the University of Missouri.

The case is brought before this Court for review on petitioner's claim that the provisions made by the State for its Negro citizens are not an equivalent for excluding them from the University of Missouri solely because of race or color, and that the State has denied him the equal protection of the laws guaranteed him by the Fourteenth Amendment to the United States Constitution.

² See Appendix, p. 24.

B.

Reasons Relied on for the Allowance of the Writ.

1. The State of Missouri denied petitioner the equal protection of the laws guaranteed him by the Fourteenth Amendment to the Constitution of the United States in that—

a. The Curators of the University of Missouri refused him admission to the School of Law of the University of Missouri (the only public institution offering instruction in law in Missouri) solely because of race or color.

Petitioner challenged his exclusion as a denial of his Federal right to equal protection both in the Circuit Court and the Supreme Court of Missouri. The Circuit Court denied mandamus without opinion; the Supreme Court considered and denied the claim of Federal right.

b. The Lincoln University Act of 1921 as applied to the facts of this case does not afford petitioner a substantial equivalent to the opportunity offered to white and other non-Negro students to study law in the School of Law of the University of Missouri.

Petitioner challenged the Lincoln University Act as a denial of his Federal right to equal protection both in the Circuit Court and the Supreme Court of Missouri. The Circuit Court denied mandamus without opinion; the Supreme Court considered and denied the claim of Federal right.

c. The burden of proving that the State had otherwise afforded petitioner an opportunity to study law substantially equal to that accorded by the State to white and other non-Negro students in the School of Law of the University

of Missouri was on the Registrar and Curators of the University of Missouri. They failed to sustain the burden.

Petitioner asserted both in the Circuit Court and the Supreme Court of Missouri that it was an incident to his Federal right to the equal protection of the laws that when he had established that the State had excluded him from the School of Law of the University of Missouri solely because of race or color, the burden was on the representatives of the State to establish that the State had otherwise accorded him an opportunity to study law substantially equal to that accorded white and other non-Negro students in the School of Law of the University of Missouri. Neither the Circuit Court nor the Supreme Court expressly ruled on this claim of Federal right.

2. There is a conflict of decision between the highest courts of the two states which have passed on the question as to what constitutes equal protection of the laws as guaranteed by the Fourteenth Amendment to the Constitution of the United States where the state has excluded a qualified Negro citizen of the state from the School of Law of the State University solely because of race or color.

The Court of Appeals of Maryland in *Pearson v. Murray*, 169 Md. 478, 182 A. 590, 103 A. L. R. 706 (1936), decided it was a denial of the Federal right to exclude the Negro student. The Supreme Court of Missouri in the instant case, 113 S. W. (2d) 783 (Mo. 1937), decided it was not a denial of Federal right to exclude the Negro student. There is no precedent in this court authoritatively settling the Federal question.

3. Sixteen states exclude Negroes from their State Universities solely because of race or color. Six of these sixteen states, and Maryland, have scholarship provisions for

study outside the state.* Ten make no provisions whatever for the graduate or professional training of Negroes.

Even if it be considered that under any circumstances a money grant could constitute the equal protection of the laws under the Fourteenth Amendment to the Constitution of the United States to a Negro citizen forced by the state to go outside the state solely because of race or color to study courses offered to all other students in the state university within the state border, nevertheless there is an irreconcilable conflict in the statutes of the scholarship laws as to size of grant, elements of compensation and other conditions which leaves the question in confusion and great uncertainty. There is no Federal precedent establishing whether a scholarship grant can constitute the equal protection of the laws; and if so, what the standard of equal protection should be.

4. According to the 1930 Census 9,176,970 Negroes live in the sixteen states which exclude Negroes from the state university solely because of race or color. Negroes attending school in these states numbered 1,879,388. In 1933, these states had 17,893 Negroes enrolled in institutions of higher learning.⁴ It is of the utmost public importance that a standard of equal protection of the laws under the Fourteenth Amendment to the Constitution of the United States be established for these students as they attempt to equip themselves to meet the highest standards of citizenship.

A decision in this case will go far toward establishing a standard of conduct for the States under the equal protection clause of the Fourteenth Amendment.

*The states which exclude Negroes from their state universities solely because of race or color are Alabama, Arkansas, Delaware, Florida, Georgia, Kentucky, Louisiana, Mississippi, Missouri, North Carolina, Oklahoma, South Carolina, Tennessee, Texas, Virginia and West Virginia. Kentucky, Missouri, Oklahoma, Tennessee, Virginia and West Virginia have scholarship laws, making diverse provisions in aid of Negroes studying in universities outside the state. Maryland also has a scholarship law. The respective laws are set out in the Appendix to the Brief, pp. 25-37. The other ten states make no provision whatsoever for Negroes to take graduate or professional courses open to white students in the state university.

⁴Statistics are listed in the Appendix, pp. 38-39.

In support of the foregoing grounds of application your petitioner submits the accompanying brief setting forth in detail the precise facts and arguments applicable thereto.

Wherefore your petitioner prays that this Court, pursuant to United States Judicial Code, Section 237b, as amended by Act of February 13, 1925, 43 Stat. 973, issue a writ of certiorari to review the judgment of the Supreme Court of Missouri affirming the judgment of the Circuit Court of Boone County denying his application for a writ of mandamus as aforesaid.

All of which is herewith respectfully submitted this 24th day of May, 1938.

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EDWARD P. LOVETT.



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BRIEF IN SUPPORT OF PETITION FOR WRIT OF CERTIORARI

I

Opinion of the Court Below

The opinion has not yet been officially reported. It appears in 113 S. W. (2d) 783 and at pages 210-224 of the record. An application for rehearing and modification of opinion was denied without opinion (R. 238).

II

Jurisdiction

1

The statutory provision is Judicial Code, section 237b as amended by Act of February 13, 1925, 43 Stat. 937 (U. S. C. tit. 28, section 344b).

The date of the judgment is December 9, 1937, on which date the Missouri Supreme Court affirmed (R. 209). Motions for rehearing (R. 244) and for modification of opinion (R. 230) were duly filed, and denied February 25, 1938 (R. 238).

That the nature of the case and the rulings below bring the case within the jurisdictional provisions of section 237b, *supra*, appears from the following:

The claim of federal constitutional rights was specifically set up in the petition for writ of mandamus (R. 10-11) and renewed at every stage of the case (R. 41, 44, 46, 203, 206, 226, 234). The trial court rendered judgment without opinion against the rights claimed (R. b). On appeal the Supreme Court of Missouri in its opinion specifically passed upon the federal rights claimed (R. 210-224).

The federal right claimed is that in excluding him from the School of Law of the University of Missouri solely because of his race or color, under the circumstances present in this case, the State of Missouri has denied petitioner the equal protection of the laws guaranteed him by the Fourteenth Amendment to the Constitution of the United States (R. 10-11, 41, 46, 216). Incidental to this claim are the further contentions that on the facts the state through the Lincoln University Act of 1921 has not accorded petitioner an opportunity to study law substantially equal to the opportunity accorded by the State to white and other non-Negro students in the School of Law of the University of Missouri (R. 46); that the burden of proving the state had otherwise accorded petitioner an opportunity to study law substantially equal to the opportunity accorded white and other non-Negro students in the School of Law of the University of Missouri was on the Registrar and Curators of the University of Missouri, and they failed to sustain

the burden (R. 205); and that the Supreme Court of Missouri erred in holding that the test of equal protection is whether the Negro student forced to study law outside the state has to pay as much or more money as the white law student in the University of Missouri (R. 229).

4

The following cases among others sustain the jurisdiction:

No decision of this Court directly in point has been found but the language of this Court in *Gong Lum v. Rice*, 275 U. S. 78, 84 (1927), states that the question of equal protection of the laws under the Fourteenth Amendment to the Constitution of the United States is open for consideration by this Court where an express claim is made that petitioner has been excluded from the only public educational institution available solely because of race or color (R. 3).

In *Pearson v. Murray*, 169 Md. 478, 182 A. 590, 103 A. L. R. 706 (1936), the only other case known on the questions here involved, the Court of Appeals of Maryland held it did constitute a denial of equal protection for the State to exclude a Negro from the only public law school in the State (the School of Law of the University of Maryland) solely because of race or color.

Beidler v. Tax Commission, 282 U. S. 1, 8 (1930), *Fiske v. Kansas*, 274 U. S. 380, 385-6 (1927), and *Creswill v. Knights of Pythias*, 225 U. S. 246, 261 (1912), decide that where a federal right has been ascertained and denied, it is the province of this Court to ascertain whether the conclusion of the State court has adequate support in the evidence. *Ancient Egyptian Order v. Michaux*, 279 U. S. 737, 745 (1929), decides that it is the prerogative of this Court to inquire not only whether the federal right was denied in direct terms, but also whether it was denied in substance and effect by interposing a non-federal ground of decision having no fair support.

III

Statement of the Case

Petitioner, a citizen and taxpayer of Missouri, resident of St. Louis, twenty-five years of age, has been denied admission to the School of Law of the University of Missouri solely because he is a Negro (R. 24). The School of Law of the University of Missouri is the only public institution in Missouri offering instruction in law, and the only institution in the State offering instruction in law which petitioner is eligible to attend (R. 3, 120). Petitioner desires to prepare himself for the practice of law in Missouri and for public service in said State (R. 2, 75). His qualifications, apart from race, for admission to the School of Law are admitted (R. 210).

The Lincoln University Act

For its Negro citizens the legislature of Missouri in 1921 passed the Lincoln University Act (Laws 1921, p. 86) which changed the name of Lincoln Institute, the State undergraduate college for Negroes, to Lincoln University. It required the curators (sec. 3) to reorganize the institution whenever necessary and practicable in their opinion so that Lincoln University might accord Negro citizens opportunity for training up to the standard furnished at the University of Missouri. Pending the full development of Lincoln University the Curators (sec. 7) were charged with paying the tuition of Negro students in the universities of the adjacent states to take courses offered at the University of Missouri but not at Lincoln University. Section 8 attempted to appropriate \$500,000 from the general school fund for purposes of the Act, but this appropriation was declared void by the Missouri Supreme Court in *Lincoln University v. Hackmann*, 295 Mo. 118 (1922). Lincoln University never got any benefit from said appropriation (R. 149).

The legislature of Missouri has appropriated substantially all sums requested by the Curators of Lincoln University for maintenance and general funds (R. 137) but nothing for expansion. Lincoln University has never offered instruction in law, or other professional or graduate training. It remains an undergraduate college (R. 129), and no definite program of expansion has been evolved (R. 130, 140). When this cause was tried, Lincoln University was facing the prospect of ending up the biennium with a small deficit (R. 135).

Prior to the decision of the Supreme Court of Missouri in this case the scholarships authorized in section 7 of the Act were not administered by the Curators of Lincoln University but by the State Superintendent of Schools (R. 163-169). No money was appropriated for scholarships until 1929. (Missouri Laws 1929, p. 61). By the appropriation act of 1933 the scholarships were reduced from full tuition to the differential between the tuition at the out-of-state university and at the University of Missouri (Missouri Laws 1933, p. 87). During all times material to this case the State Superintendent in administering the scholarships was awarding Negro students only the differential in tuition (R. 168). The Missouri Supreme Court in the instant cause ruled that under the Lincoln University Act of 1921 Negro students were entitled to full tuition payment, but it went further and declared that a scholarship based on tuition differential would not violate the equal protection of the laws (R. 221).

Facilities Open to Petitioner

The Registrar and Curators of the University of Missouri mainly relied on the tuition scholarship as according petitioner the equal protection of the laws (R. 72, 83). No serious argument was made at the trial that Lincoln University either could or would inaugurate a law course for the benefit of petitioner, the only applicant. When the President of Lincoln University and the President of its

Board of Curators, conferred about petitioner's application to the University of Missouri, they referred him to the scholarship provisions (R. 72-73). Counsel for the respondents directed his most serious cross-examination of petitioner to petitioner's refusal of the scholarship provisions (R. 83). The trial court excluded cross-examination about petitioner's attitude toward attending a law school at Lincoln University—if there were such a school—on the objection such question was purely speculative (R. 89). No money existed to open a law school at Lincoln University; all appropriations available to Lincoln University were hypothecated to run the undergraduate college (R. 131). The President of the Board of Curators of the University of Missouri admitted a law school could not be created in a day (R. 184). Only one Negro law student could be found in all the adjacent state universities (R. 140). Only three Negro lawyers had been admitted to the bar of Missouri in the past five years (R. 126).

Comparison Between Law Courses in University of Missouri and Universities of Adjacent States

Petitioner gave as one of his reasons for desiring to attend the School of Law of the University of Missouri that the School specialized in Missouri law (R. 75-76). The Dean of the School of Law denied this (R. 109). The catalogue of the University however announced that the School recognized a duty to the State beyond the equipment and training of practitioners (R. 94); that it attempted to serve the state bar by publishing the Missouri Law Review, every number of which contains notes on Missouri cases (R. 93). A list of articles and case comments from the Missouri Law Review showing the concentration on Missouri law appears in the record (R. 141-144). Ranking students in the second and third year classes have the opportunity to serve as editors on the Law Review, and do this extra work in Missouri law (R. 117).

Respondents showed that the casebooks used in the School of Law of the University of Missouri, Illinois, Nebraska, Kansas, and Iowa are largely the same (R. 109), but the Dean of the School of Law of the University of Missouri admitted that naming a casebook would not determine whether in fact an instructor paid special attention to Missouri law in his particular course (R. 114-115).

In 1935 only 24 out of 200 students in the School of Law were not Missourians. A majority of the graduates of the School of Law settle in Missouri (R. 99). A higher percentage of graduates of the School of Law of the University of Missouri pass the Missouri bar examination than graduates of other law schools (R. 145-146). One lawyer witness trained in a general law school outside Missouri testified he found himself at a disadvantage coming to the bar in Missouri in competition with lawyers trained in the University of Missouri (R. 127-128); and his testimony stands uncontradicted.

Petitioner desires to practice in Missouri, but if he enrolled in the law school of the University of Kansas he would find himself in a law school where especial emphasis is placed on the study of Kansas court decisions, statutes and methods of practice (R. 194). The University of Iowa pays special attention to the needs of students who intend to practice in Iowa (R. 194) and the Iowa Law Review gives particular attention to problems of interest to the Iowa bar (R. 195). University of Nebraska law graduates are admitted to the Nebraska bar on motion (R. 195).

Yet the Missouri Supreme Court held that petitioner could get as "sound, comprehensive and valuable legal education in the law schools of Kansas, Nebraska, Iowa and Illinois as in the University of Missouri" (R. 219) for petitioner's purposes as a future practitioner of Missouri law.

Equivalence of Scholarship

Respondents introduced proof showing the respective distances between St. Louis and Columbia, Missouri (the

seat of the University of Missouri), and St. Louis and the seats of the adjacent state universities, and corresponding railway fares (R. 152); likewise as to tuition fees (R. 157-162). No evidence whatever was introduced as to relative living costs. The Missouri Supreme Court dismissed the question of relative living costs with a statement that if petitioner went to the University of Missouri he would have living costs as well as if he went to school outside the state (R. 220). The Supreme Court did not make the test of equivalence whether the state was contributing as much to the legal education of petitioner as to the legal education of whites and other non-Negro students in the University of Missouri, but whether the cost to petitioner to attend an out-of-state university would be as great as the cost to a white student to attend the School of Law of the University of Missouri (R. 220-222).

No Attempt to Control Discretion

Petitioner made no attempt to dictate or prescribe the hours, classes, or other incidentals of instruction to be accorded him in the School of Law of the University of Missouri.

Judicial Proceedings.

The Circuit Court denied petitioner a peremptory writ of mandamus and dismissed his petition without opinion (R. b). The Missouri Supreme Court affirmed (R. 209), expressly holding that the State had accorded petitioner the equal protection of the laws (R. 224).

IV

Errors Below Relied Upon Here; Summary of Argument

The points petitioner urges on this court are in summary form as follows:

1. The State of Missouri denied petitioner the equal protection of the laws in excluding him from the School of Law of the University of Missouri solely because he is a Negro.

2. The facilities afforded petitioner under the Lincoln University Act of 1921 to study law are not substantially equal to the facilities afforded white and other non-Negro students by the State in the School of Law of the University of Missouri.

3. The Registrar and Curators of the University of Missouri failed to establish that the State had afforded petitioner the equal protection of the laws in the face of excluding him from the School of Law of the University of Missouri solely because of his race or color.

4. Mandamus against the Registrar and the Curators of the University of Missouri was the proper remedy for the protection of petitioner's constitutional rights.

POINT I

The State of Missouri Denied Petitioner the Equal Protection of the Laws in Excluding Him From the School of Law of the University of Missouri Solely Because He Is a Negro.

The exclusion of a Negro from the enjoyment of the only public facility in the State available for his needs solely on account of race or color constitutes a *prima facie* case of a denial of the equal protection of the laws.

Pearson v. Murray, 169 Md. 478, 182 A. 590, 103 A. L. R. 706 (1936): exclusion from the School of Law of the State University.

The question left open in Gong Lum v. Rice, 275 U. S. 78, 84 (1927), is raised in this case: the exclusion of a quali-

fied student on account of race or color from the only public institution in the State available to the student.

It is submitted that the crux of this case is whether in spite of his exclusion from the School of Law of the University of Missouri the State has otherwise accorded petitioner a substantially equal opportunity for the study of law as befits his needs as a future practitioner in Missouri. As will be shown later, the State has not.

POINT II

The Facilities Afforded Petitioner Under the Lincoln University Act of 1921 to Study Law Are Not Substantially Equal to the Facilities Afforded White and Other Non-Negro Students by the State in the School of Law of the University of Missouri.

The value to a citizen of an education in his own state university includes not only classroom value but diploma value. Petitioner is not only entitled to the benefit of the instruction and research in Missouri law available to him in the School of Law of the University of Missouri (R. 95-108) but also to the prestige and reputation of the School of Law among the citizens of the State, some of whom will be his future clients (R. 145-146).

See 45 Yale Law Journ. 1296, 1299; annotation (1936).

Board of Ed. v. Board of Ed., 264 Ky. 245, 94 S. W. (2d) 687 (1936).

The finding of the Missouri Supreme Court that a law student desiring to practice law in Missouri can get just as good a legal education for his purposes in the law schools of the Universities of Kansas, Nebraska, Iowa or Illinois, as in the University of Missouri, based on the fact that the same casebooks are commonly used in the law schools and students transfer from one school to the other without loss of credits (R. 219) is conclusively rebutted by the other

facts in the record showing specialization in local state law by the several schools (Statement of Case, *supra*).

The Lincoln University Act of 1931 (see Appendix) theoretically offers two possibilities: that the Curators of Lincoln University establish a law school, or give petitioner a tuition scholarship outside the State. Actually, the only choice open to petitioner is the tuition scholarship. The letter from President Florence of Lincoln University to Gaines, September 23, 1935 (R. 72-73) and the testimony of Dr. J. D. Elliff, President of the Board of Curators of Lincoln University (R. 128-141) conclusively disposes of any argument that the Curators might have set up a law school for Gaines at Lincoln University.

The alternatives presented to petitioner were either to try to enroll in the School of Law of the University of Missouri or accept a tuition scholarship in the law school of an adjacent state university: Kansas, Nebraska, Iowa or Illinois. It has been seriously questioned whether as a matter of constitutional principle any scholarship forced on a Negro for out-of-state study can be the equivalent of the right to attend the state university.

See 45 Yale Law Journal, *supra*.

Probably no course in a foreign law school would offer the advantages of the study of law in a state university, with the incidental opportunity of observing the local courts.

Pearson v. Murray, *supra*;

20 Minn. L. Rev. 673, 674: case comment (1936);

See Record, pp. 194-195.

But under any circumstances the scholarships provided by the Lincoln University Act are inadequate, and the test of equality adopted by the Missouri Supreme Court is basically wrong (R. 229).

The prohibitions of the Fourteenth Amendment operate on the states: it is the State which may not deny the equal protection of the laws. The test of equality is whether the

State accords the white student and the Negro student substantial equality of treatment.

Hooker v. Town of Greenville, 130 N. C. 472, 42 S. E. 141 (1902).

Thus assuming that a Negro student could be compensated by a money grant for his exclusion solely because of race from the state university, the state would have to give him a sum not less than the per capita contribution which the state makes to the legal education of a white student, figuring not only current expenditure but making a pro-rata allowance for the capital investment in land, buildings and equipment as well—as for example the law building, the law library and other capital items (R. 229).

The short answer to the test adopted by the Missouri Supreme Court in the principal case that petitioner has equality because he does not have to pay as much for his legal education outside the state with tuition given as the white student in the School of Law of the University of Missouri with tuition to pay, is that petitioner expressly disclaims in his Reply any claim to favored treatment because of his race or color (R. 44-45).

Regardless of the legislature's intentions in passing the Lincoln University Act, its effect has been to perpetuate inequality.

See 82 U. Pa. Law Review 157, 163-164: annotation (1933).

POINT III

The Registrar and Curators of the University of Missouri Failed to Establish That the State Had Afforded Petitioner the Equal Protection of the Laws in the Face of Excluding Him From the School of Law of the University of Missouri Solely Because of His Race or Color.

When petitioner has once established that the State has excluded him from the sole public School of Law in the State solely because of race or color, he has established a *prima facie* case which must be met.

See *Gleason v. University of Minnesota*, 104 Minn. 359, 116 N. W. 650 (1908).

Respondent's Return (R. 23-39) was in substance a plea of confession and avoidance which put the affirmative of the issue of equivalence on respondents and threw on them the burden of proof.

This proper placing of the burden of proof is very important to the protection of petitioner's constitutional rights. It is impossible to read the record in this case without being struck by the attitude of evasion and forgetfulness on the part of the officials of the University of Missouri when called by petitioner (R. 92-107, 122-123); yet all the information requested was all in possession of respondents and their witnesses.

See Jones, Evidence (2d ed.), sec. 181.

For example, Dean Masterson of the School of Law of the University of Missouri could detail down to the last odd number the cases in the casebooks used in his School of Law (R. 111-113), where few Missouri cases appear, but could not recall the policy of the Missouri Law Review which concentrates on Missouri law (R. 100-103, 141-144). Nor could he speak for the manner in which his instructors

conduct their courses (R. 116) or the value of the law library (R. 191).

Respondents could produce itemized figures as to railroad distances and railroad fares (R. 152) but displayed unbelievable unfamiliarity with the fiscal operation of their own School of Law (R. 122-123).

If the burden of proof is placed on the respondent officers of the University of Missouri, no argument is needed to establish that they have failed to establish that the State has accorded petitioner a substantially equal opportunity to study law compared to the opportunity accorded white students in the School of Law of the University of Missouri.

POINT IV

Mandamus Against the Registrar and the Curators of the University of Missouri Was the Proper Remedy for the Protection of Petitioner's Constitutional Rights.

On the facts of this case petitioner's remedy for the protection of his constitutional rights was an action of mandamus against the Registrar and Curators of the University of Missouri to compel them to enroll him in the School of Law. There was no reason for his proceeding against the Board of Curators of Lincoln University.

The duties imposed on the Board of Curators of Lincoln University under the Act of 1921 were mandatory.

Lincoln University v. Hackmann, 295 Mo. 118, 243 S. W. 320 (1922).

but the mandate was either to furnish petitioner a law school at Lincoln University or arrange to pay his tuition at an adjacent state university (R. 219).

Petitioner could not force the Board of Curators of Lincoln University to provide him a law school because section 7 of the Act gave them discretionary power to decide when such a school was necessary or practicable (R. 222-223).

Mandamus will not lie to control discretionary action on the part of officials.

State ex rel. Keck v. Seibert, 130 Mo. 202, 32 S. W. 670 (1895.)

Further, in view of the fact that no means were available to start a law school at Lincoln University (R. 130-131), the question is moot (R. 72-73).

For the reasons suggested in the Argument II, *supra*, the scholarship provisions under the Act of 1921 were inadequate, so that petitioner had only one source from which to seek the equal protection of the laws: The Curators of the University of Missouri.

The admission of a qualified citizen to a state university is not a mere privilege but a right,

Pearson v. Murray, *supra*,

which cannot be withheld without cause, and for the protection of which mandamus will lie.

Gleason v. University of Minnesota, *supra*.

CONCLUSION

The struggle of the Negro to attain an education and improve the standard of his citizenship in the midst of an indifferent or hostile environment is one of the epics of America. It is time that the nation recognized it harms itself by not forcing the states to accord him truly equal protection of the laws as guaranteed by the Federal Constitution.

It is respectfully submitted that the highest considerations of public justice require that this Court issue its writ of certiorari, and review and reverse the judgment of the Supreme Court of Missouri in this case.

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APPENDIX

Constitution of Missouri, 1875, Art. XI, Education

Sec. 1. *Free schools—school ages.* A general diffusion of knowledge and intelligence being essential to the preservation of the rights and liberties of the people, the General Assembly shall establish and maintain free public schools for the gratuitous instruction of all persons in this State between the ages of six and twenty years.

Sec. 3. *Colored children, separate schools for.* Separate free public schools shall be established for the education of children of African descent.

Sec. 5. *State university—curators.* The General Assembly shall, whenever the public school fund will permit and the actual necessity of the same may require, aid and maintain the State University, now established, with its present departments. The government of the State University shall be vested in a Board of Curators, to consist of nine members to be appointed by the Governor, by and with the advice and consent of the Senate.

Revised Statutes, Missouri, 1929

Sec. 9657. All youths, resident of the State of Missouri, over the age of sixteen years, shall be admitted to all the privileges and advantages of the various classes of all the departments of the university of the State of Missouri, without payment of tuition: Provided, that each applicant for admission therein shall possess such scholastic attainments and mental and moral qualifications as shall be prescribed in rules adopted and established by the board of curators; and provided further, that nothing herein enacted shall be construed to prevent the board of curators from collecting reasonable tuition fees in the professional departments, and the necessary fees for maintenance of the laboratories in all departments of the university, and establishing such

other reasonable fees for library, hospital, incidental expenses or late registration as they may deem necessary.

Lincoln University (Mo.) Act

Mo. Laws of 1921, pp. 86-87 (S. B. 435)

Section 1. *Repealing all acts or parts of acts wherein Lincoln institute is dealt with and enacting a new section.*—

Article XVIIa, of chapter 102, Revised Statutes of Missouri, 1919, and all acts or parts of acts, sections and parts of sections, inconsistent herewith, wherein Lincoln institute is dealt with in any way, is hereby repealed and a new article to be known as article XVIIa, is hereby enacted, the same to read as follows:

Article XVIIa, section 1. *Changing name of Lincoln institute to Lincoln university.* The name of the Lincoln institute is hereby changed to the Lincoln university.

Sec. 2. *Control vested in board of curators.* The control of the Lincoln university shall be vested in a board of curators to be constituted as follows: The State superintendent of instruction, ex officio, and eight members, at least four (4) of whom shall be Negroes. There shall be no restrictions as to residence except that all appointees shall be citizens of Missouri and shall reside within the state.

Sec. 3. *Board of curators authorized to reorganize.* The board of curators of the Lincoln university shall be authorized and required to reorganize said institution so that it shall afford to the Negro people of the State opportunity for training up to the standard furnished at the State university of Missouri whenever necessary and practicable in their opinion. To this end the board of curators shall be authorized to purchase necessary additional land, erect necessary additional buildings, to provide necessary additional equipment, and to locate in the county of Cole the respective units of the university where, in their opinion, the

various schools will most effectively promote the purposes of this Act.

Sec. 4. Governor shall appoint members—term of office. As soon as possible after the passage of this Act; the governor shall by and with the advice and consent of the senate appoint four members of the board of curators to hold office until January 1, 1923, four to hold office until January 1, 1925; and their successors shall be appointed for terms of four years. Within thirty days after the members of the board of curators shall have been appointed and qualified, the governor shall call a meeting for the purpose of organization, at Jefferson City, at such place as he may designate.

Sec. 5. All responsibilities shall pass to board of curators. With the organization of the board of curators the board of regents of the Lincoln institute shall terminate and all of their responsibilities and privileges, under the several statutes relating to the Lincoln institute shall pass immediately to the board of curators.

Sec. 6. Board to organize and have same powers as curators of State university of Missouri. It is hereby provided that the board of curators of the Lincoln university shall organize after the manner of the board of curators of the State university of Missouri and it is further provided that the powers, authority, responsibilities, privileges, immunities, liabilities and compensation of the board of curators of the Lincoln university shall be the same as those prescribed by statute for the board of curators of the State university of Missouri, except as stated in this act.

Sec. 7. May arrange for attendance at university of any adjacent state—tuition fees. Pending the full development of the Lincoln university, the board of curators shall have the authority to arrange for the attendance of Negro residents of the State of Missouri at the university of any adjacent state to take any course or to study any subjects provided for at the

state university of Missouri, and which are not taught at the Lincoln university and to pay the reasonable tuition fees for such attendance, provided that whenever the board of curators deem it advisable they shall have the power to open any necessary school or department.

Sec. 8. *Appropriating five hundred thousand dollars to carry out purposes of act.* To enable the board of curators to carry out the purposes of this act, as stated specifically in section 3, and subject to the provisions of section 6 of the same, there is hereby appropriated from any unappropriated portion of the general school funds the sum of five hundred thousand (\$500,000) dollars. Approved April 15, 1921.

Kentucky Scholarship Law

(Acts 1936, Ch. 43, Secs. 1-3)

Sec. 1. That pending the full development of the educational institutions of the Commonwealth of Kentucky, all bona fide residents of this State at the time of making written application for the benefits provided in this Act and have been such residents continuously for five (5) years next preceding the time of filing said application, and who are duly qualified for matriculation in courses of study offered at the University of Kentucky, but who, because of Section one hundred eighty-seven of the Constitution of Kentucky cannot pursue such courses at the University of Kentucky or other State institutions at which such courses are offered, or who have otherwise qualified to pursue such courses therein, and who are now pursuing or may hereafter pursue such courses in educational institutions outside of the State whereof no courses of study are provided for such persons within this State, shall have their tuition and fees paid at such institutions by the Commonwealth of Kentucky.

Section 2. That such tuition and fees be ascertained by the State Superintendent of Public Instruction and paid

upon requisition of him out of funds not otherwise appropriated.

Section 3. That the State Board of Education shall prescribe the rules and regulations governing the granting of State aid under this act. In event the funds appropriated for the purpose of carrying out the provisions of this act are insufficient for the purpose in any year, said board of education shall have the right to prorate the same among such persons whose applications are approved therefor pursuant to the provisions of this Act; and provided further, that not more than One Hundred and Seventy-five (\$175.00) Dollars shall be allowed to any such person for the purposes and under the provisions of this Act during any one school year of nine (9) months.

Maryland Scholarship Law

(Laws 1937, Ch. 506, Section I)

Section 1. *Be It Enacted by the General Assembly of Maryland,* That a sub-title and eight new sections be and the same are hereby added to Article 49B, title "Inter-racial Commission," said sub-title and eight new sections to follow immediately after Section 3, of said Article, to be known as Sections, 4, 5, 6, 7, 8, 9, 10 and 11 and to read as follows:

4. The sum of thirty thousand dollars (\$30,000) provided in the 1938-39 Budget for scholarships and partial scholarships for negroes and expenses of awarding same, and all sums hereafter appropriated for such purpose, shall be used to provide educational facilities and opportunities for negroes of this State equal to those now provided for white persons and especially to equip such negroes for the professions, such as Medicine, Law, Dentistry and Pharmacy, or any other profession or branch of education for which the State of Maryland provides opportunities for white students

and for which it does not provide opportunities for negro students.

5. Whenever any bona fide negro resident and citizen of this State, possessing the qualifications of health, character, ability and preparatory education required for admission to the University of Maryland, desires to obtain an education not provided for either in Morgan College or Princess Anne College, he may make application for a scholarship, provided by the funds mentioned in the foregoing section, so that he may obtain aid to enable him to attend a college or university where equal educational facilities can be provided and furnished, whether or not such an agency or institution is operated by the State or under some other arrangement, and whether or not such facilities are located in Maryland or elsewhere. Under such conditions, it shall be provided that out of the scholarship funds mentioned in the foregoing section, the applicant, if he possesses the proper qualifications, may have paid to him or direct to the institution which he is to attend, such sum, if any, as may be necessary to supplement the amount which it would cost him to attend the University of Maryland, so that such person will be enabled to secure educational facilities, training and opportunities equal to those provided for white students, without additional cost to such person. Be it provided, however, that the Commission hereinafter established, shall, in its discretion, have authority, in exceptional cases, to allow a grant for a scholarship in reasonable excess of the differential above referred to. In determining the comparative costs of attending any of the institutions to which scholarships may be provided, there shall be taken into consideration tuition charges, living expenses and costs of transportation.

6. A commission consisting of nine persons is hereby established to carry out the provisions of this Act. It shall be known as the "Commission on Scholarships for Negroes." It shall consist of the President of Morgan College, the Principal of Princess Anne College, the Director of Admissions of the University of

Maryland, who shall serve as ex-officio members, and six other citizens of the State, to be appointed by the Governor, who shall hold their appointments for terms of four years; provided, however, that James F. Walker, Edward N. Wilson and Charles E. Hodges, be and the same are hereby appointed to the said Commission to serve for two years from the effective date of this Act, and Dr. Ivan E. McDougale, Violet Hill Whyte and Dr. Francis M. Wood be and the same are hereby appointed to the said Commission to serve four years from the effective date of this Act, and that the said Dr. McDougale shall be the first Chairman of this Commission, to hold such position during his term of four years; that thereafter the Governor shall appoint three members of said Commission every two years and may designate one of said members as the Chairman thereof, and the Governor shall have power to fill vacancies occurring in the personnel of the said Commission; and provided further that this Commission shall not be deemed to have any power whatsoever that might infringe upon the powers of the Board of Trustees of Morgan College or the Board of Regents of the University of Maryland. The members of this Commission shall not receive salaries but may employ such secretarial and clerical help as may be needed to carry out the purpose of this Act. The appropriations made in the Budget from time to time for scholarships and for the expenses of the Commission shall be paid on proper vouchers submitted by the Commission.

7. The Commission shall have power to establish rules and regulations to govern the award of these scholarships; provided, however, that two of these rules shall be (1) that no scholarship shall be awarded to any student or prospective student who would not be qualified for admission and accepted by the University of Maryland, unless denied admission for other reasons, for the particular work that such student desires to undertake; and (2) that no student, after having been awarded such a scholarship and while attending the college or university or institute to which said scholarship may be awarded, shall be qualified to hold the scholarship and to continue thereunder unless he

maintains the same educational standards as would have to be maintained if he were taking the same work at the University of Maryland. It is declared to be the intent of this Act that the scholarships herein referred to shall supplement and not in any way duplicate work given at Morgan or Princess Anne Colleges, so that members of the negro race may receive the full benefit of the provisions of this Act, provided, however, that scholarships granted to students now at Morgan College, or to students at any other college, shall be continued until graduation of said students, provided graduation takes place within a reasonable time. The Commission shall make a report of its activities to the General Assembly of 1939, and shall include therein a report of any study of higher education for negroes, and the State's relation thereto, that, in its discretion, the Commission may make; and especially shall the Commission consider the desirability and possibility of Morgan College becoming a State-owned college for Negroes, or whether it would be more practical for said College to remain under its present control with the State continuing to grant substantial aid under an agreement that it would carry on certain educational work for the state. The Commission is hereby authorized to confer with the Board of Trustees of Morgan College in order that it may present in its report recommendations as to the most practicable and desirable way of integrating Morgan College with the State's system of higher education for Negroes.

Oklahoma Scholarship Law

(Session Laws 1935, Ch. 34, Act I, Secs. 1-3; as Amended by Session Laws 1936-37, Ch. 34, Act XI, Sec. I)

Section 1. That all persons, who are bona fide residents of this State at the time of making written application for the benefits provided in this Act and have been such residents continuously for five (5) years next preceding the time of filing said application, and who submit with said application satisfactory proof of good moral character,

and of ability to pursue the courses of study hereinafter referred to, and who have completed at least two years of college work preparatory to special courses of study, additional or further courses of study, to be pursued in educational institutions outside of the State and of their own choice, or who have otherwise qualified to pursue such courses therein, and who are now pursuing or may hereafter pursue in such institutions such courses of study and which courses of study are similar to those courses taught in the University of Oklahoma or other state-supported Oklahoma educational institutions, and, because of the provisions of section 3, of Article XIII, of the Constitution of Oklahoma, such persons cannot pursue such courses of study in the University of Oklahoma or other state-supported Oklahoma educational institutions, and no courses are taught in state-supported educational institutions of Oklahoma provided for such persons, shall have their tuition and fees paid at such educational institutions by the State of Oklahoma to the amount that such tuition and fees exceed the amount of any tuition and fees required of a resident of this state at the University of Oklahoma to pursue such courses of study; provided, that for such tuition and fees there shall not be allowed to any such person more than Two Hundred Fifty (\$250.00) Dollars during any regular school year of nine months, and not more than Twelve Dollars and fifty cents (\$12.50) per week during any summer school term; and provided further, that no such tuition and fees shall be allowed to any such person for any part of such course of study not completed by such person. That in addition to such tuition and fees, the State of Oklahoma shall pay as and for the cost of transportation of each of such persons to and from such institutions three (3) cents per mile for the necessary additional mileage by the most direct and usually travelled route from the place of residence of such person to the nearest standard educational institution outside of Oklahoma where such course or courses of study could be pursued by such person

over and above the mileage from the place of residence of such person to the University of Oklahoma at Norman, Oklahoma, and return therefrom: provided, that in event such course or courses of study pursued or to be pursued by any such person is not taught at the University of Oklahoma and is taught in one or more of the other state-supported Oklahoma educational institutions at which such person cannot pursue the same, because of said constitutional provisions, then the tuition and fees charged at such institution which is the nearest to the place of residence of such person and the location of said institution shall be the basis for ascertaining in like manner the benefits to be granted to such person under the provisions of this Act.

Section 2. That all persons, who have completed or may hereafter complete a course of study in a state-supported educational institution of Oklahoma and have been or may hereafter be graduated with a degree therefrom (and which degree does not have a similar value and recognition to such a degree from the University of Oklahoma or other state-supported Oklahoma educational institution in which such persons cannot pursue a similar course of study because of the provisions of Section 3, of Article XIII, of the Constitution of Oklahoma), and who are now pursuing, or may hereafter pursue such a course of study in an educational institution outside of the State for the purpose of obtaining therefrom a degree of the same kind as held by such person from said state-supported educational institution of Oklahoma and of similar value and recognition as such a degree from the University of Oklahoma or other said state-supported Oklahoma educational institutions, and who shall otherwise meet the requirements of Section 1 hereof, shall also be entitled to receive the benefits provided in this Act.

Section 3. That the State Board of Education of Oklahoma is hereby authorized and directed to administer the provisions of this Act, and to make from time to time all

rules and regulations necessary to carry out the purposes of this Act. In event the funds appropriated for the purpose of carrying out the provisions of this Act are insufficient for the purpose in any year, said Board of Education shall have the right to prorate the same among such persons whose applications are approved therefor pursuant to the provisions of this Act.

Tennessee Scholarship Law

(Acts 1937, Ch. 256, Secs. 1-2)

That the State Board of Education is hereby authorized and directed to establish scholarships for colored students, payable out of the State appropriations made for the Agricultural and Industrial College for Negroes, under the terms and conditions hereinafter set forth. Such scholarships shall be granted to colored students to take professional courses not offered in the said Agricultural and Industrial College for Negroes, or other State-maintained institution for Negroes, but which are offered for white students in the University of Tennessee.

Such scholarships shall be granted only to bona fide residents and citizens of this State who possess the qualifications, the health, character, the ability and preparatory education required for admission to the University of Tennessee. Such scholarships shall be in an amount sufficient to give the recipient thereof educational facilities equal to those provided by the University of Tennessee, without cost to the recipients in excess of the cost which would be required to attend the University of Tennessee.

That the scholarships herein provided for shall be granted to the nearest University or institution of learning which the recipient can lawfully attend and which offers educational facilities equal to those of the University of Tennessee, whether such university or institution is located in Tennessee or elsewhere. In determining the amount of each scholarship the State Board of Education shall take into

consideration the living expenses, the cost of transportation and the tuition charges at the institution to be attended as compared with such expenses and charges at the University of Tennessee. The State Board of Education shall pay the amount of such scholarships to the recipient or to the institution attended by him, as and when needed. Such payment shall be made out of the funds appropriated by the State for the Agricultural and Industrial College for Negroes but in no event shall the total expenditure for such scholarships exceed that proportion of the appropriation for the Agricultural and Industrial College for Negroes which the expenditure of State funds for professional courses at the University of Tennessee bears to the total State appropriation for the University of Tennessee.

Provided, that the total expenditures under this Act shall not exceed the sum of Twenty-five hundred (\$2500.00) Dollars per annum.

The State Board of Education, acting as the Board of Trustees for the Agricultural and Industrial College for Negroes, is hereby authorized to make such rules and regulations as may be necessary for the purpose of carrying this Act into effect.

Virginia Scholarship Law

(Acts 1936, Ch. 352)

Be it enacted by the General Assembly of Virginia, that whenever any bona fide resident and citizen of this State, regardless of race, possessing the qualifications of health, character, ability and preparatory education customarily required for admission to any Virginia State College, State University, or other State institution of higher learning and education, or any branch or department thereof, upon application, is denied admission thereto, for any reason, by the board which constitutes the governing authority of such institution, if it appear to the satisfaction of said board that such person is unable to obtain from another

such or similar Virginia State College, State University, or State institution, educational facilities equal to those applied for, and that such equal educational facilities can be provided and furnished to said applicant by a college, university or institution, not operated as an agency or institution of the State, whether such other facilities are located in Virginia or elsewhere, the said board of such State college, university, or institution so denying admission, is hereby authorized, out of the funds appropriated to such institution, to pay to such person, or the institution attended by him, as and when needed, such sum, if any, as may be necessary to supplement the amount which it would cost such person to attend the said State college, university or institution, so that such person will be enabled to secure such equal educational facilities elsewhere without additional cost to such person. In determining the comparative costs of attending the said respective institutions the board shall take into consideration tuition charges, living expenses and costs of transportation.

West Virginia Scholarship Law

(W. Va. Code 1937, Ch. 18, Art. 13, Sec. 1894 (2))

State Aid to Students Taking Advanced Courses Outside State. All bona fide residents of this State who have been residents of the State for five years, and who have completed courses of study equivalent to two years of college grade preparatory to special courses to be pursued outside of the State, or who have otherwise qualified to enter such courses, and who are now pursuing or may hereafter pursue, courses of study in educational institutions outside of the State the same as those taught in the West Virginia University or other West Virginia schools, and, because of section eight, article twelve of the Constitution of West Virginia, cannot pursue such course in the West Virginia University, or other state schools, and no other courses are taught in state supported educational institutions pro-

vided for them, shall have their annual tuition and fees paid by the state to the amount paid by a nonresident student of the state university or other state supported schools, over and above the amount of any tuition and fees paid by a resident student of the State university or other schools, such tuition cost to be ascertained by the state board of education for the preceding school year and paid upon recognition of the state superintendent of schools out of funds appropriated for that purpose. The Negro board of education and the state board of education, acting jointly, shall prescribe rules and regulations governing the granting of aid under this section. (1927, C. 10, Secs. 1-3; 1929, C. 34, Secs. 1-3; 1933, Ex. Sess., C. 12.)

**Statistics on Negro Population and School Attendance in
Sixteen Southern States Which Exclude Negroes
From the State Universities**

	1930 Population' Negro	1930 Negro Schools Attendance'	1933-34 Negroes in Institutions of Higher Learning'
Alabama _____	944,834	186,883	1,464
Arkansas _____	478,463	99,989	228
Delaware _____	32,602	5,807	77
Florida _____	431,828	71,992	469
Georgia _____	1,071,125	211,638	1,820
Kentucky _____	226,040	39,361	797
Louisiana _____	776,326	147,048	1,281
Mississippi _____	1,009,718	217,840	441
Missouri _____	223,840	33,137	464
No. Carolina _____	918,647	218,320	2,533
Oklahoma _____	172,198	37,976	539
So. Carolina _____	793,681	182,791	626
Tennessee _____	477,646	91,268	2,370
Texas _____	854,964	172,384	1,850
Virginia _____	650,165	141,093	2,130
W. Virginia _____	114,893	21,861	804
	<hr/> 9,176,970	<hr/> 1,879,388	<hr/> 17,893

¹ *Negroes in the United States, 1920-1932* (Bureau of the Census), C. II, table 12, p. 9.

² *Idem.*, C. XI, table 15, p. 214.

³ *Biennial Survey of Education, 1932-1934* (U. S. Bureau of Education), C. IV, part IV, summary of tables 18A, parts 1-7 incl., 18B, parts 1 and 2, pp. 120-199.

Negro Illiteracy (National)

From Negroes in the United States, 1920-1932
(Bureau of the Census)

C. XII, Table 4, p. 231

1930 _____	16.3%
1920 _____	22.9%
1910 _____	30.4%
1900 _____	44.5%
1890 _____	57.1%
1880 _____	70.0%
1870 _____	81.4%

Statistics on Education of the Negro in Missouri

From the 88th Report of the Public Schools of Missouri by
the State Superintendent of Schools for the School
Year Ending June 30, 1937

(Covering only rural, elementary and high schools)

- (p.46) Negro population: 1900—161,000; 1930—224,000.
Negro illiteracy: 1863—95%; 1930—10%.
Negro enrollment in rural, elementary and high
schools: 1900—15,000; 1937—46,012.
- (p.47) Negro teachers in rural, elementary and high
schools: 1900—385; 1937—1,401.
Negro high schools: 1920—6; 1937—62.
First class Negro high schools: 1937—17.

Distribution by Missouri of Federal Funds Received for Higher Education¹

Fiscal year ending June 30, 1934

	Univ. Missouri	Lincoln Univ.	Total
1862 land-grant fund	20,361	—	20,361
Other land grant funds	7,320	—	7,320
Morrill-Nelson funds	46,875	3,125	50,000
Hatch-Adams funds	30,000	—	30,000
Smith-Lever funds	156,882	—	156,882
Smith-Hughes funds	13,822	—	13,822
Purnell funds	60,000	—	60,000
Capper-Ketcham funds	36,382	—	36,382
Additional co-operative extension funds	34,000	—	34,060
	405,642	3,125	408,767

Percentage: Negro population, 1930 _____ 6.2%
Federal funds to Lincoln University _____ .8%

¹ Biennial Survey of Education, 1932-1934 (U. S. Bureau of Education),
C. IV, part V, table A1, pp. 486-487.

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